

REMARKS

Applicants thank the Examiner for total consideration given the present application. Claims 37-82 are currently pending of which claims 37, 46, 55, 64, 73-76, and 78-81 are independent. Claims 37, 39, 41, 43, 46, 48, 50, 52, 55, 57, 59, 61, 64, 66, 68, 70, 73-75 and 78-80 have been amended through this Reply in order to improve clarity. Upon careful review, one would conclude that no new matter has been added to the application via this amendment. Applicants respectfully request reconsideration of the rejected claims in light of the amendment and remarks presented herein, and earnestly seek timely allowance of all pending claims.

ALLOWABLE SUBJECT MATTER

Applicants appreciate that claims 76, 77, 81, and 82 are allowed. Applicants further appreciate that claims 37-72 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. § 112, 2nd paragraph.

CLAIM OBJECTION

Claim 73 stands objected to because of a minor informality. This claim has been amended to replace “diving” with “dividing” in line 4 of the claim. Thus, it is respectfully requested that this objection is withdrawn.

35 U.S.C. § 112, 2ND PARAGRAPH REJECTION

Claims 37-72 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. The Examiner alleges that the term “802.11 standard” recited in corresponding claims renders these claims indefinite since the specification includes the phrase “IEEE 802.11 standard (a, b, e, f, g, h, i, or the like)”. Particularly, the Examiner asserts that the inclusion of the phrase “or the like” supports the supposition that future revisions of the 802.11 standard are being claimed. (*See page 3, lines 1-3 of the Office Action.*)

Initially, Applicants disagree with the Examiner's assertion that the term "or the like" in the Specification renders the claims indefinite. MPEP 2173.05(d) states:

“Description of examples or preferences is properly set forth in the specification rather than the claims. *If stated in the claims*, examples and preferences >may< lead to

confusion over the intended scope of a claim. In those instances where it is not clear whether the claimed narrower range is a limitation, a rejection under 35 U.S.C. 112, second paragraph should be made.” (Emphasis added.)

In this instance, it is respectfully submitted that since the claims do not include the phrase “or the like”, the intended scope of the claims is clear and definite.

Although Applicants do not necessarily agree with the Examiner's assertion of indefiniteness, Applicants have amended claims 37, 39, 41, 43, 46, 48, 50, 52, 55, 57, 59, 61, 64, 66, 68, and 70 by replacing the phrase “IEEE 802.11” with “predetermined” in order to expedite prosecution. Accordingly, Applicants respectfully request that the Section 112, second paragraph rejection of claims 37-72 be withdrawn.

35 U.S.C. § 103 REJECTION – SchrodL, Corson

Claims 73-75 and 78-80 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over SchrodL (DE 4130318 A1)[hereinafter “SchrodL”] in view of Corson et al. (U.S. Publication No. 2004/0141502 A1)[hereinafter “Corson”]. Applicants respectfully traverse.

For a Section 103 rejection to be proper, a *prima facie* case of obviousness must be established. See *M.P.E.P.* 2142. One requirement to establish *prima facie* case of obviousness is that the prior art references, when combined, must teach or suggest all claim limitations. See *M.P.E.P.* 2142; *M.P.E.P.* 706.02(j). Thus, if the cited references fail to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

In this instance, it is respectfully submitted that neither SchrodL nor Corson, either alone or in combination, teaches or suggests all claim limitations. For example, independent claims 73 and 75 recite, *inter alia*, “a frame allotment step of dividing one data frame into frames of differing length corresponding to each of the plurality of the communication channels having said different transmission rates so that transmission burst times are substantially equal for the plurality of communication channels.” (Emphasis added.) Independent claims 78 and 80 recite a frame allotment unit that performs the above-identified steps of dividing one data frame. Independent claims 74 and 79 also recite a frame allotment step (claim 74) or unit (claim 79) that divides one data frame in a similar manner as in claims 73 and 75. However, in claims 74 and

79, the wireless communication system transmits the data frame by using a “plurality of antennas” instead of a “plurality of communication channels” as recited in claims 73 and 75.

It is respectfully submitted that Schrod1 fails to teach or suggest the above-identified feature of claims 73-75 and 78-80.

The Examiner relies on the abstract of Schrod1 as disclosing the claimed frame allotment step or unit. Applicants respectfully submit that the Examiner’s interpretation of the relied upon section of Schrod1 is clearly erroneous. In the abstract, Schrod1 merely discloses a transmission method in which successive information elements, such as a plurality of frames of equal length, are transmitted along at least two parallel transmission lines (U2, U3). Further, Schrod1 discloses that the parallel transmission lines exhibit the same physical characteristics.

Schrod1 is distinguished from the claimed invention in that in Schrod1, the data frame is divided into frames of equal length. For example, in Fig. 3, Schrod1 clearly discloses that the original data frame is divided into frames of equal length, each of which is divided into smaller units S1, S2, S3, S4, S5, and S6. Schrod1 further discloses that the same number of units (three units via U2 and three units via U3) is transmitted via each transmission lines U2, U3. As demonstrated above, Schrod1 discloses that the parallel transmission lines U2 and U3 are identical in physical characteristics. Thus, *assuming arguendo*, even if such physical characteristics include transmission rates, such transmission rates would be identical in both of these transmission lines.

Conversely, the claimed invention requires that the data frame be divided into frames of differing length corresponding to each of the plurality of the communication channels or antennas having different transmission rates so that transmission burst times are substantially equal for the plurality of communication channels or antennas. It is respectfully submitted that if the parallel transmission lines U2 and U3 exhibit different transmission rates, the transmission burst time of each frame transmitted through corresponding transmission lines cannot be substantially equal as required by the claimed invention.

Therefore, for at least these reasons, it is respectfully submitted that Schrod1 is distinguished from the claimed invention of claims 73-75 and 78-80.

Corson has not been, and indeed cannot be relied upon to fulfill at least the above-identified deficiency of SchrodL. Corson merely discloses a method for downlink macro-diversity in packet-switched cellular networks in which packets are selectively delivered from a network to a wireless communication device, over a set of available link-layer connections to/from the communication device, via one or more base stations. (*See Figs. 1 and 5.*) However, Corson is completely silent on any frame allotment step or unit for dividing a data frame into frames of differing length corresponding to each of a plurality of the communication channels or antennas having different transmission rates so that transmission burst times are substantially equal for the plurality of communication channels or antennas.

Therefore, for at least these reasons, claims 73-75 and 78-80 are patentable over the combination of SchrodL and Corson.

CONCLUSION

In view of the above amendment, Applicants believe the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Ali M. Imam Reg. No. 58,755 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

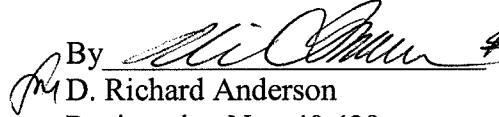
Application No. 10/551,701
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Docket No.: 2611-0245PUS1

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.147; particularly, extension of time fees.

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Respectfully submitted,

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